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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,729	12/20/2004	Teresa Ancona	04981-00532-US	3186
23416 7590 03/25/2008 CONNOLLY BOVE LODGE & HUTZ, LLP P O BOX 2207 WILMINGTON, DE 19899			EXAMINER LEWIS, JUSTIN V	
			ART UNIT 3722	PAPER NUMBER
			MAIL DATE 03/25/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/518,729	<b>Applicant(s)</b> ANCONA ET AL.	
	<b>Examiner</b> JUSTIN V. LEWIS	<b>Art Unit</b> 3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20 December 2004</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 1, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2001/0035645 to Carides, et. al. ("Carides") in view of U.S. Patent Application No. 5,779,482 to Fukumoto ("Fukumoto").

Regarding claim 1, Carides discloses a material (label) comprising a first sheet and second sheet (base ply 14 and second ply 26), each having opposite faces, designated as front and back faces, at least one of the faces being intended to bear legible printed information (see Carides paragraph 15, lines 1-3), but Carides fails to teach in addition to bearing printed information, at least one of the front faces bearing legible information which, distinct from the printed information, is in the form of reliefs appearing to be superimposed upon the printed information. However, Fukumoto provides such teaching, in the form of Braille reliefs superimposed upon printed information located on labels (see Fukumoto col. 4, lines 3-5). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the Carides sheets by superimposing Fukumoto Braille reliefs upon the regions of the Carides sheets bearing printed information, in order to enable visually handicapped persons to understand the printed information (see Fukumoto col. 3, lines 22-25)

Regarding claim 3, Carides, as modified by Fukumoto, teaches the material of claim 1, characterized in that the information in relief is formed by deposit of an element on front face of at least one of the first and second sheets (see Fukumoto col. 4, lines 3-5).

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carides in view of Fukumoto, as applied to claim 1 above, and further in view of U.S. Patent No. 5,753,350 to Bright ("Bright").

Carides, as modified by Fukumoto, discloses the material of claim 1, but fails to teach the information in relief being formed by local deformation along the thickness of at least one of the first and second sheets. However, Bright provides such teaching, in the form of embossed Braille indicia (see Bright col. 2, lines 6-9). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the label with Braille reliefs taught by Carides in view of Fukumoto by replacing the Fukumoto reliefs (formed by deposit of an element) with the Bright reliefs (formed by local deformation along the thickness of a sheet), in order to enable visually handicapped persons to identify products, as explicitly taught by Bright.

7. Claims 4-8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carides in view of Fukumoto, as applied to claim 1 above, and further in view of U.S. Patent No. 5,449,240 to Dorpfeld, et. al. ("Dorpfeld").

Regarding claim 4, Carides, as modified by Fukumoto, discloses the material of claim 1, but fails to teach the information in relief being composed by local modification of the state of the surface of the front face of at least one of the first and second sheets. However, Dorpfeld provides such teaching, in the form of an apparatus cutting Braille indicia into the surface of a substrate (see Dorpfeld col. 2, lines 31-34; note that although the Dorpfeld invention is not focused upon this apparatus, the reference nonetheless discloses the computer-directed cutting technology). It would have been

Art Unit: 3722

obvious to a person of ordinary skill in the art at the time of the invention to modify the label with Braille reliefs taught by Carides in view of Fukumoto by replacing the Fukumoto reliefs (formed by deposit of an element) with the reliefs described by Dorpfeld (formed by a computer-directed operation in which Braille indicia is cut into a substrate surface), in order to achieve a label with Braille indicia having high degrees of accuracy and precision.

Regarding claim 5, Carides, as modified by Fukumoto and Dorpfeld, discloses the material of claim 4, wherein printed and relief information are included on a single sheet (note that per the combination instructions set forth in the rejection of claim 4, above, printed information, as well as relief information, are included on the same sheet).

Regarding claim 6, Carides, as modified by Fukumoto and Dorpfeld, discloses the material of claim 4, including at least two sheets (Carides plies) constituted by said first and second sheets (base ply and second ply, respectively), of which the first sheet is made of opaque material (see Carides paragraph 33, lines 9-14), whose front face bears printed information (see Carides paragraph 15, lines 1-4), and the second sheet is made of transparent material (see Carides paragraph 46, line 13), whose front face bears information in relief (note that per the combination set forth in the rejection of claim 1, above, both the first and second sheets contain printed information as well as information in relief), and the second sheet is superimposed on the front face of the first sheet (see rejection under 35 USC 112, above), the first sheet bearing printed information (see Carides paragraph 15, lines 1-4).

Regarding claim 7, Carides, as modified by Fukumoto and Dorpfeld, discloses the material of claim 4, including at least two sheets (Carides plies) constituted by said first and second sheets (base ply and second ply, respectively), of which the second sheet is made of opaque material (see Carides claim 13), whose front face bears printed information (see Carides paragraph 15, lines 1-4), and the first sheet is made of transparent and flexible material (see Carides paragraph 33, lines 14-17, providing that the base ply may be made of filmic materials such as polyethylene, polystyrene or polyester; note that said materials may be produced in the form of transparent sheets if desired; see also Carides paragraph 33, lines 1-6, describing the ply as flexible), whose front face bears printed information (see Carides paragraph 15, lines 1-4), and the first sheet is superimposed on the front face of the second sheet (see rejection under 35 USC 112, above), the second sheet bearing information in relief (note that per the combination set forth in the rejection of claim 1, above, both the first and second sheets contain printed information as well as information in relief).

Regarding claim 8, Carides, as modified by Fukumoto and Dorpfeld, discloses the material of claim 4, including at least two sheets (Carides plies) constituted by said first and second sheets (base ply and second ply, respectively), of which the second sheet is made of opaque material (see Carides claim 13), whose front face bears information in relief (note that per the combination set forth in the rejection of claim 1, above, both the first and second sheets contain printed information as well as information in relief), and the first sheet is made of opaque (see Carides paragraph 33, lines 9-14) and flexible (see Carides paragraph 33, lines 1-6) material, bearing printed

information on its front face (see Carides paragraph 15, lines 1-4), and the first sheet is superimposed on the front face of the second sheet (see rejection under 35 USC 112, above), the second sheet bearing information in relief (note that per the combination set forth in the rejection of claim 1, above, both the first and second sheets contain printed information as well as information in relief).

Regarding claim 11, Carides, as modified by Fukumoto and Dorpfeld, discloses outer wrapping for a receptacle made at least in part of a material according to claim 8 (see rejection of claim 8, above) (see Carides abstract, line 2, providing that the label assembly is adapted for affixation to a vessel).

8. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,566,823 to Summers ("Summers") in view of Carides, as modified by Fukumoto (in the manner and for the reasons set forth in the rejection of claim 1, above).

Regarding claim 9, Summers discloses packaging comprising a receptacle (toothbrush holder 10, having Braille markings located on a tray 16 found within the interior of the toothbrush holder), but fails to teach a material according to claim 8. Carides, as modified by Fukumoto, provides such teaching, in the form of a label having Braille information superimposed upon corresponding printed information (see rejection of claim 8, above). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the Summers toothbrush holder by replacing the Braille indicia located on the interior tray with the Braille/printed information label assembly taught by Carides in view of Fukumoto, in order to enable sighted as well as



visually handicapped members of the same household to identify their toothbrushes, and make equal use of the toothbrush holder.

Regarding claim 10, when Summers is modified by Carides and Fukumoto (in the manner and for the reasons set forth in the rejection of claim 9, above), the resultant combination discloses an inner lining for a receptacle, made up at least in part of a material according to claim 8 (see rejection of claim 8, above) (note that Examiner considers the inner tray of the Summers toothbrush holder to be an inner lining of the receptacle).

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUSTIN V. LEWIS whose telephone number is (571)270-5052. The examiner can normally be reached on M-F 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3722

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JVL/

/Monica S. Carter/  
Supervisory Patent Examiner, Art Unit 3722